



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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MAY 4 1982

OFFICE OF
AIR, NOISE AND RADIATION

SUBJECT: Guidance on Policy for Enforcement of VE Violations
Against Sources Which are Meeting an Applicable Mass
Emission Standard

FROM: Kathleen M. Bennett *151*
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TO: Regional Administrators, Regions I-X

The following guidance presents EPA policy for enforcement of VE violations against sources which are meeting applicable mass emission standards.

A Headquarters guidance memorandum issued on June 2, 1981 states that where a power plant is in violation of a visible emission limit, but concurrently achieved the mass emission requirements, a revision of the visible emission limit for that source may be an appropriate regulatory response and this might justify giving lower priority to enforcing the VE limit in the interim while the limit is being revised. The June 2nd guidance was initially written to address oil-fired power plants, but has been expanded to include other stationary sources which are subject to both mass emission and visible emission standards. Regional response to that memo requested clarification concerning what criteria should be used in determining when this guidance is applicable. The policy presented below supersedes the previous guidance issued on this subject.

Please note that this guidance is not intended to address whether or not VE requirements are an independent, enforceable part of a SIP. We believe they should be and, absent something in the SIP to the contrary, we believe they are. In addition, we are not suggesting enforcement action against VE violations be taken only when accompanied by a fully documented mass violation. Rather, there are circumstances as identified below where VE is basically a surrogate for mass emissions and consequently it would be a waste of scarce resources to proceed with a VE enforcement action when we believe mass standards are being met.

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Most visible emission standards were developed as a practical and economic means for determining whether emission control equipment, necessary for a source to meet a mass emission limit, is continuously maintained and properly operated. In instances where no mass emission limit is applicable, such as fugitive process emission sources, or where accurate emission testing is not possible, visible emission standards are the vehicle for directly regulating particulate emissions and are not subject to the guidance provided in this memo.

It is our policy not to pursue visible emission violations where we believe it is probable that the source is in compliance with the mass standard. If a source has documented its compliance with the mass standard, we should evaluate the case to determine if there is reason to believe that there have been any changes in operating conditions or in the performance of the control system to suggest that the prior determination is not an accurate representation of its current compliance status with respect to the mass standard. If there have been no such changes, the policy stated in this memorandum would be effective. If there have been any significant changes, further action might be appropriate.

Only after these areas have been investigated should consideration be given to revising the visible emission standard. Of course, it will be necessary to consider the effect of any relaxation of visible emission limits on attainment and maintenance of the ambient standards where VE was relied upon in the State's control strategy evaluation. Where appropriate, this option should be discussed with the State agency as an acceptable means of resolving the violation. However, the State may have reasons for not wanting to change the standard and it is appropriately the State's decision to make. In any case, under this condition, pursuit of an enforcement action by EPA would not normally be a justified use of resources.

If you have any questions or comments about this issue or application of this policy, please feel free to call Richard Wilson at 755-2977 or Edward Reich at 382-2807.